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9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA-WESTERN DIVISION
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15 CRAIG M. FRATT,) CV 14-0779-SH
16)
17 Plaintiff,) MEMORANDUM DECISION
18 v.) AND ORDER
19)
20 CAROLYN W. COLVIN, Commissioner,)
Social Security Administration,)
Defendant.)

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22 This matter is before the Court for review of the Decision by the
23 Commissioner of Social Security denying plaintiff's applications for Disability
24 Insurance Benefits and social security income. Pursuant to 28 U.S.C. §636(c), the
25 parties have consented that the case may be handled by the undersigned. The
26 action arises under 42 U.S.C. §405(g), which authorizes the Court to enter
27 Judgment upon the pleadings and transcript of the record before the
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1 Commissioner. The parties have filed their pleadings and their respective briefs in
2 support of those pleadings. The defendant has also filed the certified
3 Administrative Record. After reviewing the matter, the Court concludes that the
4 Decision of the Commissioner should be reversed and remanded.

5 **I. BACKGROUND**

6 On February 22, 2011, the Plaintiff Craig Michael Fratt filed an application
7 for Disability Insurance Benefits under Title II of the Social Security Act. He also
8 protectively filed a Title XVI application for supplemental security income on
9 March 10, 2011. For both applications, plaintiff alleged disability beginning
10 September 1, 2008. (See Administrative Record [“AR”] 23; 220-231). The
11 Commissioner initially denied both applications on July 12, 2011, and again upon
12 reconsideration on August 19, 2011. Thereafter, plaintiff filed a written request
13 for hearing on September 14, 2011. On November 28, 2012, plaintiff appeared
14 and testified at a hearing in Moreno Valley, California. (Id.)

15 The Administrative Law Judge (“ALJ”) issued an Unfavorable Decision,
16 finding that plaintiff was not disabled and was capable of performing work that
17 involves no more than simple instructions, occasional interaction with coworkers
18 or supervisors and no interaction with the public, no intense concentration for
19 more than one-hour periods without five-minute breaks, no fast-paced work, and
20 the ability to be absent or “off-task” for up to ten percent of the time. (See AR 23-
21 35). On May 22, 2012, plaintiff sought review of the Unfavorable Decision to
22 the Appeals Council. (See AR 17-19). The Appeals Council declined to set
23 aside the ALJ’s Decision, making it final (See AR 1-5, 6-10).

24 Plaintiff challenges the ALJ’s Decision denying disability benefits and
25 supplemental security income. He alleges that the ALJ erred on the following
26 two grounds: (1) granting little or no weight to the mental function
27 assessment of plaintiff’s treating physician, and (2) finding that plaintiff’s
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1 subjective complaints in support of his disability claim are not credible.
2 Based on the totality of the record, the Court concludes that the ALJ clearly
3 erred in affording plaintiff's treating physician "limited" weight. As such, it is
4 unnecessary to address the remaining issue of plaintiff's credibility.

5 **II. DISCUSSION**

6 It is well settled that a treating physician's opinion is entitled to greater
7 weight than that of an examining physician. Magallanes v. Bowen, 881 F.2d
8 747, 751 (9th Cir. 1989), citing Sprague v. Bowen, 812 F.2d 1226, 1230 (9th
9 Cir. 1987). However, the treating physician's opinion is not "necessarily
10 conclusive as to either a physical condition or the ultimate issue of disability."
11 Magallanes v. Bowen, 881 F.2d at 751, citing Rodriguez v. Bowen, 876 F.2d
12 759, 761-62 n.7 (9th Cir. 1989). The weight given to a treating physician's
13 opinion depends on whether it is supported by sufficient medical data and is
14 consistent with other evidence in the records. 20 C.F.R. § 404.1527 (2004).
15 When a non-treating physician's opinion contradicts that of the treating
16 physician—but is not based on independent clinical findings, or rests on
17 clinical findings also considered by the treating physician—the treating
18 physician's opinion may be rejected only if the ALJ gives "specific, legitimate
19 reasons for doing so that are based on substantial evidence in the record."
20 Morgan v. Apfel, 99 D.A.R. 1855, 1857 (9th Cir. (Or.) Feb. 25, 1999).

21 In assessing plaintiff's residual mental functional capacity, the ALJ
22 considered medical evaluations conducted by various doctors, including
23 plaintiff's treating physician, Dr. Reddy, as well as examining physician, Dr.
24 Kikani, and non-examining stage agency medical consultants. He gave
25 "significant" weight to the examining and non-examining physician, and
26 "limited" weight to plaintiff's treating physician. The ALJ reasoned as follows:

27 Dr. Kikani is a licensed psychiatrist who had the opportunity
28 to personally observe the claimant and perform a thorough

1 mental status examination before coming to the conclusion
2 concerning the claimant's functionality. This evaluation is the
3 most thorough evaluation in the record. Dr. Kikani's opinion
4 concerning the claimant's limitations is consistent with the
5 benign objective findings elicited during the mental status
6 examination. It is also consistent with the record as a whole,
7 which documents a conservative course of psychotropic
8 medications and no history of psychiatric hospitalizations. The
9 State agency psychological medical consultants' opinion that
10 the claimant would be limited to simple tasks is also consistent
11 with this longitudinal history and Dr. Kikani's opinion.

12 (See AR 31).

13 In giving "limited" weight to Dr. Reddy's testimony, the ALJ stated the
14 following:

15 Dr. Reddy noted the claimant's symptoms caused marked
16 limitations that would essentially prevent all work activities (Ex.
17 8F). Dr. Reddy submitted another letter dated November 2, 2012,
18 indicating that the claimant was essentially confined to his home
19 and had numerous difficulties with everyday situations. He noted
20 the claimant had marked limitations with detailed tasks, with
21 understanding, memory, and concentration . . . Dr. Reddy's
22 opinion that the claimant is disabled and the marked limitations
23 that he assessed in the written statements are is [sic]
24 inconsistent with the treatment record as a whole. Dr. Reddy's
25 treatment notes lack detailed objective findings from mental
26 status examinations that would allow an assessment of the
27 claimant's cognitive functioning and progress on medication.
28 Rather, they contain mostly subjective complaints. Yet, overall
evidence shows that the claimant has been on a stable course of
conservative oral medications. He showed good cognitive
functioning at his evaluation. Dr. Reddy's progress notes show
that the claimant was doing better with a medication adjustment
. . . Dr. Reddy acknowledged that the claimant's psychotropic
medications were effective in controlling the claimant's
symptoms, although he felt the symptoms would persist.

29 (Id.).

30 Based on the above, plaintiff's argument—namely, that the ALJ erred
31 by failing to provide specific and legitimate reasons supported by substantial
32 evidence for rejecting Dr. Reddy's testimony—holds water. The ALJ's
33 argument that Dr. Reddy's treatment notes lacked objective findings from
34 mental status examinations is simply false. On March 17, 2011, Dr. Reddy did
35 conduct a formal mental status examination that showed a constricted affect,

1 depressed and anxious mood, and agitation. (See AR 322). Despite the ALJ's
2 conclusion that Dr. Reddy's opinions are inconsistent with the record as a whole,
3 these aforementioned examination results are in fact consistent with the findings
4 from Dr. Kikani's independent examination of plaintiff, which was conducted the
5 following month.

6 For example, Dr. Kikani found evidence of "excessive anxiety", slightly
7 pressured speech, a depressed and anxious affect, a preoccupation with
8 anxious feelings, traumatic symptoms of chest pain, heart palpitations,
9 dizziness, fear of public places, periodic thoughts of "feeling like giving up",
10 obsessive worrying, and more. (See AR 324-325). These positive findings from
11 both psychiatrists' examinations form more than an adequate basis for Dr.
12 Reddy's mental function assessments, as both doctors found clear evidence to
13 support plaintiff's complaints of fear of leaving his home, self-defeating thoughts,
14 and general anxiety. Thus, defendant's (and the ALJ's) argument that Dr. Reddy's
15 findings concerning plaintiff's disability were incorrectly based on unreliable
16 subjective complaints is also without merit.

17 Though, as the ALJ pointed out, Dr. Kikani found plaintiff oriented in all
18 three spheres with unimpaired memory and good cognitive functioning (See AR
19 325), that finding does not undermine Dr. Kikani's additional findings of
20 excessive anxiety, slightly pressured speech, a depressed and anxious affect,
21 thoughts of suicide, and the like. Moreover, the ALJ's determination that
22 plaintiff's medication improved his condition is not a legitimate basis for giving
23 limited weight to Dr. Reddy's opinion. This is especially true in light of plaintiff's
24 November 2011 visit with Dr. Reddy, at which plaintiff complained that he was
25 still experiencing insomnia despite switching medications, and that his "many
26 meds don't work" for him. (See AR 377). At his most recent treatment session in
27 November 2012, plaintiff was still confined to his home and fearful of being in a
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1 car. (See AR 426). Dr. Reddy stated at this session that despite the “controlling
2 effects” of plaintiff’s medication, he expected the symptoms to persist. The ALJ
3 noted as much, yet he mistakenly concluded that Dr. Reddy’s opinions are
4 inconsistent with the record as a whole.

5 Lastly, the ALJ claimed that Dr. Reddy did not indicate limitations with
6 regards to plaintiff’s ability to perform simple tasks. Though Dr. Reddy found
7 plaintiff “mildly limited” in his ability to understand, remember, and carry out
8 simple instructions (See AR 390), that does not translate to a finding that plaintiff
9 is capable of performing simple work. Even simple and unskilled work entails
10 much more than the mental capacity to understand, remember, and carry out those
11 simple tasks; it also requires (*inter alia*) the ability to maintain attention and
12 concentration, to adhere to a schedule, to be punctual, and to maintain socially
13 appropriate behavior. These are all areas in which Dr. Reddy found plaintiff
14 markedly limited. (See AR 390-391).

15 Under 42 U.S.C. § 405(g), this Court reviews the ALJ’s Decision to
16 determine if: (1) the ALJ’s findings are supported by substantial evidence; and (2)
17 the ALJ used proper legal standards. See DeLorme v. Sullivan, 924 F.2d 841, 846
18 (9th Cir. 1991). This Court cannot disturb the ALJ’s findings if they are supported
19 by substantial evidence, even though other evidence may exist which supports
20 plaintiff’s claim. See Torske v. Richardson, 484 F.2d 59, 60 (9th Cir. 1973), cert.
21 denied, Torske v. Weinberger, 417 U.S. 933 (1974). Based on the foregoing (i.e.,
22 the lack of evidentiary support for the ALJ’s Decision), it is clear that the ALJ
23 failed to provide specific and legitimate reasons for giving limited weight to Dr.
24 Reddy. Since Dr. Reddy’s opinions are clearly supported by sufficient medical
25 data and are consistent with other evidence in the records (including Dr. Kikani’s
26 own findings), the ALJ should have given greater weight to Dr. Reddy’s findings.
27 All of the reasons proffered by the ALJ were either circular or illegitimate and
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1 unsupported by the record. Therefore, the Court finds that the ALJ failed to satisfy
2 the relevant legal standard and committed a reversible error in giving limited
3 weight to Dr. Reddy's opinion.

4 **ORDER**

5 For the foregoing reasons, it is hereby adjudged that the Decision of the
6 ALJ is reversed and remanded pursuant to Sentence 4 of 42 U.S.C. § 405(g).

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8 Dated: October 7, 2014

A handwritten signature in black ink, reading "Stephen J. Hillman". The signature is written in a cursive, flowing style. The first name "Stephen" is written with a large, prominent 'S'. The last name "Hillman" is written with a large, prominent 'H'. The signature is positioned above a horizontal line.

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11 STEPHEN J. HILLMAN
12 UNITED STATES MAGISTRATE JUDGE
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